

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
Milwaukee Division**

ANR PIPELINE COMPANY,

Plaintiff,

v.

1.92 ACRES, MORE OR LESS, IN WASHINGTON COUNTY, WISCONSIN, LOCATED ON PARCEL IDENTIFICATION NO. 194984, COMPOSED OF 2.61 ACRES, MORE OR LESS, BEING MORE PARTICULARLY DESCRIBED AS LOTS ONE (1) AND TWO (2) OF CERTIFIED SURVEY MAP NO. 4778, RECORDED IN THE WASHINGTON COUNTY REGISTRY ON JANUARY 10, 1997, IN VOLUME 32 OF CERTIFIED SURVEY MAPS ON PAGES 234-235, AS DOCUMENT NO. 736982 AND BEING A PART OF THE NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 19, TOWNSHIP 9 NORTH, RANGE 20 EAST, VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN, INSTRUMENT NO. 1403593; AND OWNED BY GERMANTOWN LAND, LLC,

and

GERMANTOWN LAND LLC
900 Skokie Boulevard, Suite 285
Northbrook, IL 60062,

SERVE:

Steven Wold, Registered Agent
55 E. Jackson Blvd Ste. 500
Chicago, IL 60604

Defendants.

Case No. 2:24-cv-530

COMPLAINT IN CONDEMNATION

Nature of the Case

1. Plaintiff ANR Pipeline Company ("ANR"), pursuant to its power of eminent domain as authorized by Section 7(h) of the Natural Gas Act, 15 U.S.C. § 717f(h), and Federal

Rule of Civil Procedure 71.1, files this action for (i) the taking of certain interests in real property; and (ii) the ascertainment and award of just compensation to the owner of interest in real property, Germantown Land LLC, and any other interested parties (collectively, the “Owner”).

Jurisdiction and Venue

2. This Court has original jurisdiction in this matter pursuant to 28 U.S.C. § 1331 and Section 7(h) of the Natural Gas Act, 15 U.S.C. § 717f(h), because: (a) ANR is the holder of a certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission (“FERC”) for the construction of an interstate natural gas pipeline that crosses Illinois and Wisconsin; (b) ANR, despite negotiation efforts, has been unable to acquire by contract, or has been unable to agree with the Owner as to the compensation to be paid for, the necessary easements to construct, operate, and maintain a pipeline for the transportation of natural gas; and (c) the amount claimed by the Owner exceeds \$3,000.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because the interests in the real property that ANR seeks to condemn are located within the Eastern District of Wisconsin.

Parties

4. ANR is a Delaware limited partnership with its principal office located at 700 Louisiana Street, Suite 700, Houston, Texas 77002. ANR is an interstate natural gas company as defined by the Natural Gas Act, 15 U.S.C. § 717a(6), and, as such, is authorized to construct, own, operate, and maintain pipelines for the transportation of natural gas in interstate commerce. ANR’s transportation of natural gas in interstate commerce is subject to the jurisdiction and approval of FERC.

5. Germantown Land LLC is the record owner of that certain tract of land identified as Parcel Identification No. 194984, composed of 2.61 acres, more or less, located in Washington

County, Wisconsin, and being more particularly described in that certain Deed recorded as Instrument Number 1403593, among the land records of said County (the “Property”). The Property is depicted on **Exhibit 1**.

6. There may be other persons who claim an interest in the property to be condemned whose names are currently unknown to ANR because they could not be ascertained by a diligent inquiry. These persons will be made parties to this action as permitted by Federal Rule of Civil Procedure 71.1(c)(3).

Facts

7. ANR is in the process of (i) replacing approximately 48 miles of existing pipeline, originally installed in 1949, 1950, and 1960, with approximately 51 miles of new, larger diameter pipeline; (ii) modifying and replacing compression facilities at two existing compressor stations; (iii) modifying six meter stations; and (iv) installing and removing auxiliary facilities (the “Wisconsin Reliability Project”).

8. The pipeline installed will measure 30 inches and 36 inches in diameter in Washington and Waukesha Counties, Wisconsin.

9. Natural gas transported by the Wisconsin Reliability Project will serve multiple public utilities and is necessary to satisfy the growing energy needs of consumers in Illinois and Wisconsin.

10. ANR filed an application for a certificate of public convenience and necessity with FERC on November 14, 2022, FERC Docket No. CP23-15-000, in which it sought permission to construct the Wisconsin Reliability Project and attendant facilities. On December 19, 2023, FERC issued a certificate of public convenience and necessity (the “FERC Certificate”) authorizing ANR

to construct and operate the Wisconsin Reliability Project. A copy of the FERC Certificate is attached as **Exhibit 2**.

11. FERC found that the Wisconsin Reliability Project will “adequately improve reliability and meet increased demand with no adverse operational impact on existing customers.” *See* Ex. 2, at 12, ¶ 29.

12. FERC also found that ANR “demonstrated a need for the Wisconsin Reliability Project, which will enable it to upgrade existing pipeline and compression facilities with new, more modern pipeline and compression facilities.” *See* Ex. 2, at 63, ¶ 154.

13. As a result, the FERC found that “public convenience and necessity requires approval of the [Wisconsin Reliability Project].” *See* Ex. 2, at 63, ¶ 154.

14. ANR must begin construction of the Wisconsin Reliability Project as soon as possible to ensure completion within FERC’s deadline. *See* Ex. 2.

15. The FERC-approved route of the Wisconsin Reliability Project crosses the Property. A map depicting the route of the Wisconsin Reliability Project is attached as **Exhibit 3**.

16. ANR seeks to construct a portion of the Wisconsin Reliability Project on the Property. The Wisconsin Reliability Project cannot be constructed until ANR acquires certain permanent easements (the “Permanent Easements”) and temporary easements (the “Temporary Easements”) on the Property (collectively the “Easements”). The Easements are necessary for constructing, maintaining, operating, altering, testing, replacing, and repairing the Wisconsin Reliability Project.

17. A plat depicting the size and nature of the Easements and the Wisconsin Reliability Project’s route across the Property is attached hereto as **Exhibit 4**.

18. The Permanent Easements to be taken on the Property include a permanent and exclusive easement and right-of-way to construct, operate, maintain, replace, repair, remove or abandon the Wisconsin Reliability Project and appurtenant equipment and facilities, as well as the right to change the location of the installed pipeline within the area of the Permanent Easement as may be necessary or advisable.

19. The Temporary Easements will enable ANR to construct the Wisconsin Reliability Project and engage in restoration or clean-up activities. The Temporary Easements are requested as of the date of authorized entry onto the Property and their use is required until all work, including restoration, is complete.

20. ANR also seeks to acquire the right of ingress and egress to and from and through the Easements and the right of access through any existing and future roads on the Property.

21. ANR also seeks the right to clear encroachments and fell trees and clear brush or other vegetation as necessary or convenient for the safe and efficient construction, operation, or maintenance of the Wisconsin Reliability Project or to maintain safe and efficient access to and from the Wisconsin Reliability Project.

22. The Owner shall retain the right to use the Property in any manner that will not interfere with the use and enjoyment of ANR's rights under the Easements. Specifically, the Owner shall not, without the prior written consent of ANR: (a) change the depth over the Permanent or Temporary Easements; (b) place or permit to be placed any temporary or permanent structure or obstruction of any kind, including but not limited to buildings, mobile homes, trees, telephone poles or wires, electric poles or wires, water or sewer lines, meters or utility boxes, paved roads or passage ways or the like, within the Permanent or Temporary Easements; (c) excavate or otherwise alter the ground elevation or otherwise create a water impoundment of the

Permanent or Temporary Easements; and (d) store any materials of any kind or operate or allow to be operated any heavy machinery or equipment over the Permanent or Temporary Easements, nor cause the Easements to be covered by standing water.

23. ANR has negotiated with the Owner and has made several efforts to acquire the Easements by contract. However, ANR and the Owner have been unable to agree upon the compensation to be paid.

24. ANR requests the right to immediate possession of the Easements for purposes of constructing the Wisconsin Reliability Project as described above.

25. Pursuant to the authority granted to ANR by Congress in Section 7(h) of the Natural Gas Act, 15 U.S.C. § 717f(h), ANR now seeks to take by eminent domain the Easements over the Property as depicted herein and in **Exhibit 4**.

WHEREFORE, ANR respectfully requests that this Court:

A. Enter an Order of Judgment of Taking by Eminent Domain as to the Easements as described herein;

B. Ascertain and award just compensation to the Owner for the taking of the Permanent Easements;

C. Ascertain and award just compensation to the Owner for the taking of the Temporary Easements; and

D. Grant such other relief as may be just and proper.

Dated: May 1, 2024

Respectfully submitted,

ANR PIPELINE COMPANY
By Counsel

/s/ Richard D. Holzheimer, Jr.

Richard D. Holzheimer, Jr.

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Counsel for ANR Pipeline Company

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and I hereby certify that a true copy of the foregoing will be served upon all named Defendants via private process server or, for unknown landowners and if permitted by the court, via publication. Once service is effectuated, an Affidavit/Return of Service will be filed with this Court.

/s/ Richard D. Holzheimer, Jr.

Richard D. Holzheimer, Jr.